

Senate Bill 179

By: Senator Albers of the 56th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated,
2 relating to administration and enforcement of chapter, so as to provide for the adoption of a
3 real-time internet services model to provide for the electronic transmission of minimum
4 motor vehicle insurance coverage; to provide for definitions; to create the Data Base
5 Advisory Council; to provide for council membership, duties, and reporting; to provide for
6 an online application to connect systems between insurers and state agencies; to provide for
7 a third-party contractor as a designated agent for administration of the system; to provide that
8 insurers shall provide certain information to the system; to provide for designated agent
9 requirements and duties; to provide for departmental duties; to provide for rules and
10 regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 6 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
14 administration and enforcement of chapter, is amended by revising Code Section 40-2-137,
15 relating to notice of insurance coverage and termination by insurance agent, notice of
16 termination to owner, fees, insurance coverage for active military personnel, as follows:

17 "40-2-137.

18 (a) As used in this Code section, the term:

19 (1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance
20 insuring a motor vehicle that is rated or insured as a business use or commercial use
21 vehicle or is licensed by the state as a commercial vehicle.

22 (1.1) 'Council' means the Data Base Advisory Council created pursuant to subsection
23 (b.1) of this Code section.

24 (2) 'Fleet policy' means a commercial vehicle policy that insures two or more vehicles
25 that are not identified individually by vehicle identification number on the policy or a

commercial policy that is subject to adjustment by audit for vehicle changes at the end of the policy period.

(3) 'Lapse' means one or more days upon which the records of the department or the designated agent do not reflect that a motor vehicle was covered by a policy of minimum motor vehicle insurance coverage.

(4) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified in Chapter 34 of Title 33.

(5) 'Proof of minimum motor vehicle liability insurance coverage' means the receipt from an insurer by the department of notice of such insurance coverage by electronic transmission or other means approved by the department.

(5.1) 'Real-time internet services model' means an online verification system established by insurers pursuant to subsections (b.1) and (b.2) of this Code section.

(6) 'Terminate' or 'termination' means actual cessation of insurance coverage after the date upon which coverage will not be restored for any reason, including, without limitation, cancellation, nonrenewal, and nonpayment of premium and without regard to whether such cessation was preceded by any extension or grace period allowed by the insurer.

~~(b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum motor vehicle liability insurance, any insurer issuing or renewing in this state any policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than a fleet policy shall within 30 days after the date the insurance agent binds the coverage or on the date such coverage was renewed, whichever is applicable, provide notice of such insurance coverage by electronic transmission to the department; except that once coverage data has been electronically transmitted to the department, there shall be no requirement to report on subsequent renewals of that coverage. Insurance coverage information included in such notice of issue or renewal shall be limited exclusively to name of insurer; vehicle identification number; the make and year of the insured motor vehicle; and policy effective date. The department shall not require the policy limits to be disclosed for purposes of this subparagraph. For the purposes of this Code section, the vehicle identification number shall be the vehicle identification number as that number is shown in the records of the department. For the purposes of this Code section, the Commissioner of Insurance shall furnish such notices to the department upon issuance of a certificate of self-insurance.~~

~~(B) In cases in which the minimum motor vehicle insurance coverage required by Chapter 34 of Title 33 terminates, the insurer shall by electronic transmission notify the department of such coverage termination on or before the date coverage ends or, if termination is at the request of the insured, then on the date such request is processed~~

by the insurer. ~~Insurance coverage termination information included in such notice shall include vehicle identification number and the date of coverage termination. For the purposes of this Code section, the Commissioner of Insurance shall furnish such notices to the department upon termination of a certificate of self-insurance.~~

~~(C) The commissioner shall notify the Commissioner of Insurance quarterly of any and all violations of the notice requirements of this paragraph by any insurer, and the Commissioner of Insurance may take appropriate action against such insurer the same as is authorized by Code Section 33-2-24 for violations of Title 33; provided, however, that there shall be no private cause of action against an insurer or the department for civil damages for providing information, failing to provide information, or erroneously providing information pursuant to this Code section. No insurer shall utilize the costs of any audit or examination conducted by the Insurance Department pursuant to this paragraph as a cost of business in the insurer's rate base. The department shall commence the reports provided for in this Code section beginning July 1, 2010.~~

~~(D) The reports required of insurers and the Commissioner of Insurance shall not apply to any vehicle for which the vehicle coverage is provided by a fleet policy.~~

~~(2) The department shall prescribe the form and manner of electronic transmission for the purposes of insurers sending the notices required by this Code section which shall in no way be construed as modifying the provisions of Code Section 33-24-45.~~

~~(3) Notwithstanding the provisions of paragraph (1) of this subsection, any irregularities in the notice to the department required by paragraph (1) of this subsection shall not invalidate an otherwise valid termination.~~

~~(4) The minimum liability insurance records which the department is required to maintain under this Code section or any other provision are exempt from the provisions of any law of this state requiring that such records be open for public inspection; provided, however, that the records of any particular motor vehicle may be available for inspection by any law enforcement officer for official law enforcement investigations, the insurer of record, and the owner of the vehicle in the manner prescribed by the commissioner.~~

(b)(1) There is hereby created within the department, the Data Base Advisory Council.

(2) The council shall be composed of seven members as follows:

(A) The Commissioner of Insurance or his or her designee;

(B) The state revenue commissioner or his or her designee;

(C) The commissioner of public safety or his or her designee;

(D) The commissioner of transportation or his or her designee;

(E) One representative of the computer industry with knowledge and experience in implementing a real-time internet services model and a full book of business download data base model, appointed by the state revenue commissioner;

(F) One representative of a trade association representing property and casualty insurers, appointed by the Commissioner of Insurance; and

(G) One insurance agent, appointed by the Commissioner of Insurance.

(3) The state revenue commissioner or his or her designee shall serve as chairperson of the council, and the Commissioner of Insurance or his or her designee shall serve as vice chairperson. The chairperson, in consultation with the vice chairperson, shall fix a time and place for meetings of the council.

(4) Councilmembers shall receive no compensation for their services. State officials or state employees shall receive no compensation for their services on the council, but shall be reimbursed for expenses incurred in the performance of their duties as a member of such council in the same manner as reimbursements are made in their capacity as state officials or state employees. The funds necessary for such reimbursement shall come from funds appropriated to or otherwise available to their respective departments.

(5) The council shall make recommendations that include:

(A) The best methods and practices for the implementation of a real-time internet services model and the creation of a data base for insurance verification based on an initial full book of business download from all insurance companies issuing motor vehicle liability and continuing full book of business downloads for such companies choosing this method of reporting; and

(B) A detailed instruction guide for insurer compliance with the model's data base requirements.

(6) The council shall, no later than October 1, 2019, submit its findings and recommendations to the chairpersons of the House Committee on Insurance, the Senate Insurance and Labor Committee, the House Committee on Transportation, the House Committee on Motor Vehicles, the Senate Transportation Committee, the House Committee on Ways and Means, and the Senate Finance Committee.

(b.1)(1) The real-time internet services model shall provide an online application that is capable of supporting the interconnection of systems between insurance carriers and selected state agencies. Such model shall be designed so that it:

(A) Allows jurisdictions to obtain the documented online status of insurance information at any point in time within the constraints of scheduled maintenance or temporary system failure;

(B) Allows jurisdictions to incorporate the online verification system into their license plate renewal programs;

(C) Eliminates the need to exchange a massive amount of data except for the initial full book of business download and, for those companies that choose the real-time internet services model including the unknown carrier inquiry, eliminates the need to download data under subparagraph (c)(2)(A) of this Code section;

(D) Protects the confidentiality of insurance information within the confines of each insurance carrier's data environment;

(E) Enables commercial insurance carriers to more easily comply with state mandates; and

(F) Protects privacy so that only designated, legally authorized entities have access.

(2) The real-time internet services model may utilize standards established by the Insurance Industry Committee on Motor Vehicle Insurance; and

(3) The real-time internet services model shall not include a national data base reporting system.

(b.2)(1) The department shall contract with a third party to act as the department's designated agent for administration of this Code section pursuant to the competitive bidding procedures pursuant to Chapter 5 of Title 50. As provided for in such third-party contract, such designated agent shall establish a data base that contains the insurer data, the departmental data, and any other information determined by the department pursuant to this Code section.

(2) The data base and access to a selected real-time internet services model shall be developed and maintained in accordance with guidelines, rules, and regulations established by the department and shall allow authorized state and local law enforcement and financial institutions to efficiently access the records of the data base and the real-time internet services model 24 hours a day, seven days a week, subject to allowances for scheduled maintenance or temporary system failures.

(3) The department shall:

(A) Provide for the development of the data base security requirements;

(B) Approve data base reporting requirements; and

(C) Determine if data base reports shall be made available through the department's internet site or through other electronic media, if the department determines that sufficient security is provided, to ensure compliance with the provisions of this Code section regarding limitations on disclosure of information in the data base.

(4) The designated agent using information provided by the department shall:

(A) Compare all current motor vehicle registrations against the data base;

(B) Compare, four times per calendar year, the list of registered vehicles against the list of insured vehicles by using the real-time internet services model. The designated

agent shall stagger such quarterly comparisons in accordance with rules and regulations established by the department;

(C) Compare motor vehicle registrations that do not have a matching vehicle identification number in the data base against the real-time internet services model system with a vehicle identification number which is also known as an unknown carrier inquiry; and

(D) Update the data base with information provided by insurers not participating in the real-time internet service model system, including the unknown carrier request.

(5)(A) On or before the seventh day of each calendar month, the department shall provide the designated agent with the make, model, year, and vehicle identification number of each vehicle in the department's motor vehicle data base and the name and address of each person listed on each vehicle's registration.

(B) The department shall adopt rules establishing procedures for using the department's data base and for the purposes of administering and enforcing this Code section.

(6)(A) The designated agent shall archive data base files at least semiannually for auditing purposes.

(B) The department shall audit the program at least annually. The audit shall include verification of:

(i) Billings made by the designated agent; and

(ii) The accuracy of matching vehicle registration numbers provided by the department and those provided by insurers.

(b.3) On or after January 1, 2021, the real-time internet services model information access for each insurer in this state shall include the National Association of Insurance Commissioners company code, the vehicle identification number, and the policy number or the vehicle identification number only or an unknown carrier inquiry.

~~(c)(1) The department shall monitor the reporting by insurers of the issuance of new and renewal policies and the termination of coverage.~~

~~(2)(A) A match is based upon the vehicle identification number as recorded on the department's motor vehicle records. When the vehicle identification number does not match the department's motor vehicle records, the department shall notify the insurer and the insurer shall, within 30 days from receipt of the returned error, correct the vehicle identification number and resubmit the transaction.~~

~~(B) After receipt of the department's notice, if the insurer determines that the vehicle identification number that it submitted to the department is in fact the accurate number on the insured vehicle, then the insurer shall so notify the department and the owner of the vehicle.~~

~~(C) Upon notification, the owner shall, in a manner prescribed by the commissioner, make a correction of such number at the appropriate county tag office.~~

~~(d)(1)(A) Upon notification of coverage termination by the insurer, the department shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact that coverage has been terminated and provide an explanation of the penalties provided for by law.~~

~~(B) The department shall send such notice to the address of the owner of the motor vehicle shown on the records of the department.~~

~~(C) The mailing of such notice by the department shall be deemed notice of such owner's duty to maintain the required minimum insurance coverage and the possible penalties and consequences for failing to do so and shall be deemed to satisfy all notice requirements of law.~~

~~(2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor vehicle insurance coverage and it shall be the duty of the owner's insurer to provide proof of such coverage to the department within 30 days of the date of such notice, pursuant to the requirements of subparagraph (b)(1)(A) of this Code section.~~

~~(3) If the vehicle is covered by a fleet policy, the owner's insurer shall not be required to provide such proof electronically to the department.~~

(c)(1) Each insurer that issues a policy to a motor vehicle owner in this state that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage within 60 days of public notice from the department that a designated agent has been selected by the department, shall:

(A) Submit to the department's designated agent a record of each motor vehicle insurance policy issued by the insurer and in effect for a vehicle registered or garaged in this state as of the date of the previous electronic submission to the department;

(B) Participate in the real-time internet services model; and

(C) Respond to an unknown carrier inquiry, or as an alternative, submit on or before the seventh and twenty-first days of each calendar month, a record of each motor vehicle insurance policy issued by the insurer and in effect for a vehicle registered in this state as of the date of the previous submission.

This paragraph does not apply to any vehicle for which vehicle coverage is provided under a fleet policy. Nothing in this paragraph shall preclude an insurer from more frequent reporting.

(2)(A) A record provided by an insurer pursuant to paragraph (1) of this subsection shall include:

(i) The make, year, and vehicle identification number of each insured vehicle; and

(ii) The policy number and effective date of each policy.

(B) An insurer shall provide the information required pursuant to this paragraph electronically or any other method authorized by the department through the authorized agent.

(3) The department may assess a civil penalty of not more than \$250.00 dollars for each day an insurer fails to comply with this subsection. Such penalty may be waived if the insurer shows that such failure to comply was inadvertent, accidental, or the result of excusable neglect as determined by the department.

(4) The records which the department's designated agent is required to maintain under this Code section or any other provision are exempt from the provision of any law of this state requiring that such records be open for public inspection; provided however, that the records of any particular motor vehicle may be available for inspection by any law enforcement officer for official law enforcement investigations, the insurer of record, and the owner of the vehicle in the manner prescribed by the commissioner.

(d)(1) When the data base indicates that a registered motor vehicle is not covered under a motor vehicle liability policy, the department's designated agent shall use the real-time internet services model, an unknown carrier inquiry, or the records provided by an insurer to determine if the registered vehicle is covered by a motor vehicle liability policy. If it is determined that the motor vehicle is not insured, the designated agent shall provide notice to the owner of such motor vehicle that such owner has 15 days to provide proof of compliance with minimum motor vehicle insurance coverage or proof of an exemption.

(2) If, within 15 days, an owner fails to provide satisfactory proof of such owner's motor vehicle liability policy, the department's designated agent shall provide a second 15 day notice to such owner requiring proof of compliance with minimum motor vehicle insurance coverage or proof of an exemption.

(3) If the vehicle is covered by a fleet policy, the owner's insurer shall not be required to provide such proof to the department's designated agent.

(4) Following a second 15 day notice, the department's designated agent shall provide to the department a list of those vehicles that are not qualified for an exemption and that are uninsured for more than ten days.

~~(e)(1)~~(5) The department's designated agent shall provide the department with the owner's insurance history to document coverage lapses. When proof of minimum motor vehicle liability insurance coverage is provided within the time period specified in this Code section, but there has been a lapse of coverage for a period of more than ten days, the owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to the department within 30 days of the date of such notice will result in the suspension of the owner's motor vehicle registration by operation of law. If any lapse fee provided

for in this Code section is paid to the county tax commissioner, the county shall retain \$5.00 thereof as a collection fee.

~~(2)~~(6) If proof is not provided within the time period specified in this Code section that minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle registration shall be suspended immediately by operation of law by the department. When such proof is provided and the owner pays a \$25.00 lapse fee and pays a \$60.00 restoration fee, the suspension shall terminate; provided, however, that the commissioner may waive the lapse fee and restoration fee for any owner whose vehicle registration has been suspended pursuant to this paragraph who provides proof of continuous minimum motor vehicle insurance coverage. If any restoration fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$10.00 thereof as a collection fee.

~~(3)~~(7) In the event of a second suspension of the owner's registration under this Code section, within a five-year period of a prior suspension, the department by operation of law shall suspend the motor vehicle registration. When proof is provided that minimum motor vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays a \$60.00 restoration fee, the suspension shall terminate.

~~(4)~~(8) In the event of a third or subsequent suspension of the owner's registration under this Code section, within the previous five-year period from the date of the third or subsequent suspension, the department by operation of law shall revoke the motor vehicle registration. When proof is provided that minimum motor vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays a \$160.00 restoration fee, the owner may apply for registration of the motor vehicle.

~~(f)~~~~(1)~~(e)(1) The commissioner may waive the lapse fee for any owner whose vehicle registration has been voluntarily canceled pursuant to Code Section 40-2-10.

(2) Upon being presented with a copy of official orders or other satisfactory proof of ordered duty as approved by rule or regulation of the commissioner showing that an owner of a motor vehicle was deployed outside the continental United States on active military duty in the armed forces of the United States at the time his or her minimum motor vehicle insurance coverage for such vehicle terminated, the county tag agent shall waive the lapse fee and restoration fee, suspension of the owner's motor vehicle registration under this Code section shall terminate, and application for registration of the vehicle which otherwise satisfies requirements provided by law may be accepted without delay.

~~(g)~~(f) The county tax commissioner shall have the authority to waive a lapse fee if sufficient proof is provided that no actual lapse in coverage occurred. Such proof shall be retained by the county tax commissioner for audit purposes.

318 ~~(h)~~(g) Notwithstanding any provision of law to the contrary, a person on active military
319 duty in the armed forces of the United States whose motor vehicle is registered in this state
320 and has license plates from this state and who, as a result of his or her military duties or
321 assignment, is required to reside in another state may meet the requirements for minimum
322 motor vehicle liability coverage by purchasing such coverage in amounts equal to or
323 greater than the minimum coverages required by Georgia law and providing proof of such
324 coverage to the department. In such cases, the motor vehicle shall continue to be registered
325 and licensed in this state as long as it otherwise meets the requirements of law."

326 **SECTION 2.**

327 All laws and parts of laws in conflict with this Act are repealed.